



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/758,655	01/12/2001	Bennett J. Liss	R048-DB	9504

7590 03/24/2004

David A. Belasco  
BEEHLER & PAVITT  
Suite 330  
100 Corporate Pointe  
Culver City, CA 90230

EXAMINER

RHODE JR, ROBERT E

ART UNIT	PAPER NUMBER
----------	--------------

3625

DATE MAILED: 03/24/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/758,655

Applicant(s)

LISS, BENNETT J.

Examiner

Rob Rhode

Art Unit

3625

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 January 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____.  |

## **DETAILED ACTION**

### ***Claim Objections***

Claim 6 is objected to because of the following informalities: In the last sentence of the claim, there appears to be too many "and" and specifically the second "and". It makes interpretation of the meets and bounds of the claim difficult.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 101***

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1 - 4, 8, 9 – 12 and 16 are rejected under 35 USC 101. These claims fail to fall within one of the statutory classes of invention set forth in 35 USC 101. Although the preambles of these claims recite a "system", there is minimal corresponding recitations of structural elements which is associated in any way that moves to define the recited "system" in a manner which places the invention of the claims 1 – 4, 8, 9 – 12 and 16 within any of the statutory classes of invention pursuant to 35 USC 101. Moreover, a system claim cannot contain a human being.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

**Claims 1 – 5, 8 – 13 and 16 are rejected under 35 U.S.C. 102(e) as being unpatentable over Broerman (US 6,594,633 B1).**

Regarding claim 1 and related claim 9, Broerman teaches a system for marketing real estate, comprising:

a venue, said venue being controlled by a venue operator (see at least Abstract, Col 2, lines 11 – 15 and Figure 3); a data gathering means (see at least 5c); said means permitting said buyers to enter information into a data base (Figure 5).

Please note that in online systems for marketing Real Estate that the recitations in claim 1 such as “containing potentially interested and qualified real estate buyers”, “said means being controlled by a supplier of either of goods and services to the real estate industry”, “customer contacts, said contacts resulting from information entered into said data gathering means by said buyers” and “an agreement between the venue operator and the supplier of either of goods and services to the real estate industry to share revenues resulting from either of sales, rentals and services provided based on said

data gathering" is given little patentable weight. The phrase(s) and or word(s) are given little patentable weight because the claim language limitation is considered to be non-functional descriptive material, which does not patentably distinguish the applicant's invention from Broerman. Thereby, the non-fictional descriptive material is directed only to the content of the data/information and data/information for an agreement and therefore does not affect either the structure or method/process of Broerman, which leaves the method and system unchanged.

Regarding claim 2 and related claim 10, Broerman teaches a system for marketing real estate wherein said means permitting said buyers to enter information into a data base (Abstract).

Please note that in online systems for marketing Real Estate that the recitations in claim 2 such as "said means permitting said buyers to enter information into a data base," is given little patentable weight. The phrase(s) and or word(s) are given little patentable weight because the claim language limitation is considered to be non-functional descriptive material, which does not patentably distinguish the applicant's invention from Broerman. Thereby, the non-fictional descriptive material is directed only to the content of the data/information and therefore does not affect either the structure or method/process of Broerman, which leaves the method and system unchanged.

Regarding claim 3 and related claim 11, Broerman teaches a system for marketing real estate, wherein the buyer's contact information comprises name, address, telephone and facsimile numbers, e-mail address and times to be reached (Abstract).

Please note that in online systems for marketing Real Estate that the recitations in claim 3 such as "the buyer's contact information comprises name, address, telephone and facsimile numbers, e-mail address and times to be reached" is given little patentable weight. The phrase(s) and or word(s) are given little patentable weight because the claim language limitation is considered to be non-functional descriptive material, which does not patentably distinguish the applicant's invention from Broerman. Thereby, the non-fictional descriptive material is directed only to the content of the data/information and therefore does not affect either the structure or method/process of Broerman, which leaves the method and system unchanged.

Regarding claim 4 and related claim 12, Broerman teaches a system for marketing real estate wherein the real estate preference information comprises the buyer's desired location, building size, lot size, number of rooms of a particular specification, climate control features, other building features, lot features and location feature (Abstract).

Please note that in online systems for marketing Real Estate that the recitations in claim 4 such as "the real estate preference information comprises the buyer's desired location, building size, lot size, number of rooms of a particular specification, climate control features, other building features, lot features and location feature" is given little patentable weight. The phrase(s) and or word(s) are given little patentable weight

Art Unit: 3625

because the claim language limitation is considered to be non-functional descriptive material, which does not patentably distinguish the applicant's invention from Broerman. Thereby, the non-fictional descriptive material is directed only to the content of the data/information and therefore does not affect either the structure or method/process of Broerman, which leaves the method and system unchanged.

Regarding claim 5 and related claim 13, Broerman teaches a system for marketing real estate, wherein the venue containing potentially interested and qualified real estate buyers further comprises: an open house, said open house being a real estate property held open for public viewing and offered for either of sale and lease (Abstract).

Please note that in online systems for marketing Real Estate that the recitations in claim 5 such as "the venue containing potentially interested and qualified real estate buyers further comprises: an open house, said open house being a real estate property held open for public viewing and offered for either of sale and lease" is given little patentable weight. The phrase(s) and or word(s) are given little patentable weight because the claim language limitation is considered to be non-functional descriptive material, which does not patentably distinguish the applicant's invention from Broerman. Thereby, the non-fictional descriptive material is directed only to the content of the data/information and therefore does not affect either the structure or method/process of Broerman, which leaves the method and system unchanged.

Regarding claim 8 and related claim 16, Broerman teaches a system for marketing real estate wherein the information entered into the database further includes responses to a contest displayed in connection with the data gathering means (Abstract).

Please note that in online systems for marketing Real Estate that the recitations in claim 8 such as "the information entered into the database further includes responses to a contest displayed in connection with the data gathering means" is given little patentable weight. The phrase(s) and or word(s) are given little patentable weight because the claim language limitation is considered to be non-functional descriptive material, which does not patentably distinguish the applicant's invention from Broerman. Thereby, the non-fictional descriptive material is directed only to the content of the data/information and therefore does not affect either the structure or method/process of Broerman, which leaves the method and system unchanged.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 6, 7, 14 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Broerman (US 6,594,633 B1) in view of Damico (US 5,819,285).**



Broerman substantially discloses and teaches the applicant's invention.

However, Broerman does not specifically disclose and teach a system for marketing real estate wherein said data gathering means further comprises: computer terminal, said terminal including a video screen, input means, nonvolatile memory and central processing unit; data collection and organizing software running on said computer terminal; user-friendly instructions for real estate buyers to enter contact and preference information; and means for sorting and selecting and potential buyers from said input information. Nor does Broerman specifically disclose and teach teaches a system for marketing real estate wherein the data collected at the computer terminal is relayed to a central location for addition to a master data base, said master database providing a means to track the origin of real estate contacts resulting from said collected information.

Regarding claim 6 and related claim 14, Damico teaches a system for marketing real estate wherein said data gathering means further comprises:  
a computer terminal, said terminal including a video screen, input means, nonvolatile memory and central processing unit (Figure 1); data collection and organizing software running on said computer terminal (Col 2, lines 53 – 60); user-friendly instructions for real estate buyers to enter contact and preference information (Figure 1); and means for sorting and selecting and potential buyers from said input information (Col 8, lines 48 – 50).

Regarding claim 7 and related claim 15, Damico teaches a system for marketing real estate wherein the data collected at the computer terminal in the venue is relayed to a central location for addition to a master data base, said master data base providing means to track the origin of real estate contacts resulting from said collected information (Abstract and Figures 1 and 2).

It would have been obvious to one of ordinary skill in the art at the time of the invention to have provided the system of Broerman with the system of Damico to have enabled a system for marketing real estate wherein said data gathering means further comprises: computer terminal, said terminal including a video screen, input means, nonvolatile memory and central processing unit; data collection and organizing software running on said computer terminal; user-friendly instructions for real estate buyers to enter contact and preference information; and means for sorting and selecting and potential buyers from said input information; and wherein the data collected at the computer terminal is relayed to a central location for addition to a master data base, said master database providing a means to track the origin of real estate contacts resulting from said collected information – in order to have a system to collect and store data regarding buyers. In this regard, the user of the system will be able to sort relevant information to fit their needs and thereby increase their satisfaction with the system. With this increased customer satisfaction, the probability that the user will recommend its use to others will

increase the probability that others will use is and thereby increase the potential revenue for the system operator.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Rob Rhode** whose telephone number is **(703) 305-8230**. The examiner can normally be reached Monday thru Friday 8:00 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Jeff Smith** can be reached on **(703) 308-3588**.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the **Receptionist** whose telephone number is **(703) 308-1113**.

Any response to this action should be mailed to:

***Commissioner for Patents***

***P.O. Box 1450***

**Alexandria, Va. 22313-1450**

or faxed to:

**(703) 872-9306** [Official communications; including  
After Final communications labeled  
"Box AF"]

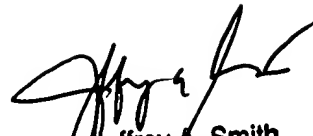
**(703) 746-7418** [Informal/Draft communications, labeled  
"PROPOSED" or "DRAFT"]

Application/Control Number: 09/758,655  
Art Unit: 3625

Page 11

Hand delivered responses should be brought to Crystal Park 5, 2451 Crystal  
Drive, Arlington, VA, 7<sup>th</sup> floor receptionist.

RER



Jeffrey A. Smith  
Primary Examiner